

REMARKS

In the Action, the claims are rejected as being indefinite and as being anticipated by or obvious over the art of record. In response, claims 1, 2, 4, 6-11, 13, and 16 are amended. New claims 17- 23 are also added. The pending claims in this application are claims 1-14 and 16-23 with claims 1, 2, 6, 12, 13, 16 and 17 being independent. In view of these amendments and the following comments, reconsideration and allowance are requested.

By this amendment, claims 1, 6, and 16 are amended to recite the genus of original claim 12. Claims 2 and 13 are amended to delete certain compounds and to recite the compounds disclosed in the specification and in the claims as originally filed.

Claims 4 and 6-11 are amended to delete the reference to “preparations” and now recite “compositions”. These amendments are submitted to overcome the rejections under 35 U.S.C. § 112, second paragraph.

Claims 4 and 6-11 are not rejected over the art of record. In view of these amendments to overcome the rejections based on indefiniteness, these claims are submitted to be in condition for allowance.

Rejection of Claims 1-3, 5, 12, 13 and 16

Claims 1, 3, 5, 12 and 16 are rejected under 35 U.S.C. § 102(b) as being anticipated by WO 01/98258 or the article by Walpole et al. Claims 1-3, 5, 12, 13, and 16 are rejected as being obvious under 35 U.S.C. § 103(a) over WO ‘258 or Walpole et al.

The Action refers to page 8 of WO ‘258. As amended, the independent claims do not overlap with the compounds of WO ‘258. In particular, the compound disclosed at the bottom of page 8 of WO ‘258 is a 3,4-dihydroxyphenyl compound having two hydroxyl groups in the positions 3 and 4 of the phenyl ring. As amended, independent claims 1, 6, 12 and 16 recite a genus where R⁴ and X together are not a hydroxyl group. Therefore, the claims as amended are not dihydroxyphenyl compounds.

Walpole et al. is directed to analogs of capsaicin as analgesics. Walpole et al. does not disclose or suggest the flavoring composition, compositions for use in nutritional, oral hygiene or consumed for pleasure, the process for producing flavoring compounds, cosmetic or dermatological compositions or methods of imparting a flavor to a composition as recited in the claims. Moreover, claim 12 specifically excludes the compounds disclosed in Walpole et al. the

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LEY et al.
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expression "with the exception that X represents an oxygen atom, R¹ 1-pentyl, R² and R³ hydrogen and R⁴ methyl". Accordingly, claims 1-3, 5, 12, 13 and 16 are not anticipated by or obvious over Walpole et al. either alone or in combination with WO '258.

New claims 17-20 are directed to a method of imparting a flavor to a composition by administering an effective amount of a flavoring compound of Formula I where Formula I is defined as in original claim 1. Claims 18-20 depend from claim 17 to further define the method. Claims 21-23 depend from claims 6, 16 and 17, respectively, to recite the exception to the compounds encompassed by the genus of the independent claims. These methods are not disclosed or suggested in the art of record. Accordingly, the claims are in condition for allowance.

In view of these amendments and the above comments, claims 1-14 and 16-23 are in condition for allowance. Accordingly, reconsideration and allowance of the claims are requested.

Respectfully submitted,



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